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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,650	03/04/2002	Barry Bond	MS1-779US	6104
22801	7590	12/12/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER NGUYEN, CINDY	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/090,650	<b>Applicant(s)</b> BOND ET AL.	
	<b>Examiner</b> Cindy Nguyen	<b>Art Unit</b> 2161	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8,10-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-8 and 10-15 is/are allowed.
- 6) ☒ Claim(s) 16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is in response to communication filed 11/09/07.

#### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

Applicant's arguments that Price does not disclose the following as recited in this claim:

investigating information related to the executable image, thereby identifying the format of the executable image, wherein during the investigating an extensible database of executable-image formats is accessed.

based upon the identified format of the image, initiating a loader associated with the identified format. In the paragraph [0009] of the remark (filed 05/01/07), Applicant stated that " These "images" are typically stored files that are designed to be loaded into the memory of a computer. When control of the processor is passed to an "image" in memory, it executes (or "runs") that image. [Executable images] may be, for example, applications, programs, program modules, program libraries, and the like. A reference herein to loading files expressly refers to loading stored executable images.

Also, in the "Microsoft computer dictionary" fifth edition define that image can be a file, a program or data. Therefore, executable image may be an executable file or executable program...

Further, Price is clearly discloses investigating information related to the executable image, thereby identifying the format of the executable image, wherein during the investigating an extensible database of executable-image formats is

accessed (i.e., identifying executable files to be included in the kernel 130 is stressed., file identification involves identifying the different file formats used to distribute kernel software in the computer system 110, the executable files are then isolated by isolating the modules loadable by the kernel 130, col. 5, lines 58-61).

based upon the identified format of the image (i.e., identifying the different file formats used to distribute Kernel software in the computer system, col. 5, lines 58-61), initiating a loader associated with the identified format (loading executables into memory, col. 6, lines 58-59).

Applicant's arguments that Price does not disclose the following as recited in this claim: Loading one or more executable image into a computer memory, such an image having one or more formats defined by an extensible database of executable-image formats and executing the one or more executable images that are loaded into the computer memory.

Price clearly disclose the following as recited in this claim: Loading one or more executable image into a computer memory (i.e., loading executables into memory, col. 6, lines 59-60), such an image having one or more formats defined by an extensible database of executable-image formats and executing the one or more executable images that are loaded into the computer memory (i.e., the different file formats used to distribute kernel software in the computer system and the executable files are then isolated by isolating the modules loadable by the kernel, col. 5, lines 58-61).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16 and 18--23 are rejected under 35 U.S.C. 102(e) as being anticipated by Price (US 6739932).

Regarding claims 16, 19 and 20, all the limitations of these claims have been noted in the rejection of claim 1. Price discloses: a method, a computer-readable medium having computer executable instructions that when executed by a computer for facilitating loading to one or more executable images a varying formats, the method comprising: locating an executable image on a computer media (col. 6, lines 58-59, Price);

investigating information related to the executable image, thereby identifying the format of the executable image, wherein during the investigating an extensible database of executable-image formats is accessed (matching and verification process in fig. 4 and col. 9, line 1 to col. 10, lines 11, Price).

based upon the identified format of the image, initiating a loader associated with the identified format (col. 6, lines 66 to col. 7, lines 57, Price); with that loader, loading the executable image into a computer memory (col. 6, lines 58-59, Price).

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Regarding claim 18, all the limitations of this claim have been noted in the rejection of claim 16 above. In addition, Price discloses: wherein headers of the image contains the information related to the executable image for the investigating (col. 8, lines 12-22, Price).

Regarding claims 21 and 23, Price discloses: a computer-readable medium having modularized computer-executable modularized sets of instructions and an operating system comprising a medium that, when executed by the computer perform a method comprising: loading one or more executable images into a computer memory (col. 6, lines 58-59, Price), such an image having one or more formats defined by an extensible database of executable image formats (col. 7, lines 40-46, Price); executing the one or more executable images that are loaded into the computer memory (col. 5, lines 38-55, and matching and verification process in fig. 4 and col. 9, line 1 to col. 10, lines 11, Price)

Regarding claim 22, all the limitations of this claim have been noted in the rejection of claim 21 above. In addition Price discloses: wherein the modularized sets of instructions are isolated with clean interfaces (col5, lines 58 to col. 6, lines 3, Price).

***Allowable Subject Matter***

Claims 1, 3-8 and 10-15 are allowed in light of the applicant arguments and in light of the prior art made of record.

The following is an examiner's statement of reasons for allowance: the prior art of record failed to disclose: make obvious, or otherwise suggest: A computer-readable medium having computer-executable modules comprising: a file-format recognizer configured to recognize the file format of the executable image from amongst a database file format definition, wherein the database is extensible so that addition file format definitions may be added to the database of multiple file format definitions as recited in claim 1.

The following is an examiner's statement of reasons for allowance: the prior art of record failed to disclose: make obvious, or otherwise suggest: a computer-readable medium having computer-executable models comprising: a database of multiple executable image formats which is the base for which the recognizer recognizes the format of executable image and for which the memory mapper varies how to loads and maps the executable image into memory, wherein the database is extensible so that additional executable image formats may be recognized by the recognizer and loaded and mapped by the memory mapper as recited in claim 8.

The dependent claims 3-7 and 10-15, being further limiting to the independent claims 1, 8 and 15 definite and fully enable by the specification are also allowed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cindy Nguyen



ETIENNE LEROUX  
PRIMARY EXAMINER